

**U.S. Department of Energy**  
**Washington, D.C.**

**ORDER**

**DOE O 542.2A**

Approved: 2-27-02

**This directive was reviewed and certified as current and necessary by Bruce M. Carnes, Director, Office of Management, Budget and Evaluation/Chief Financial Officer, 9-18-02.**

**SUBJECT: UNSOLICITED PROPOSALS**

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1. OBJECTIVES.

- a. To set forth Department of Energy (DOE) requirements and responsibilities for the receipt, processing, and review of unsolicited proposals (USPs).
- b. To ensure those submitting USPs are notified in a timely manner of the status (e.g., pending, accepted for funding, or declined) of their proposals.

2. CANCELLATION. DOE O 542.2, *Unsolicited Proposals*, dated 10-28-96.

3. APPLICABILITY.

- a. DOE Elements. Except for the exclusions in paragraph 3c, the provisions of this Order apply to all DOE elements, including the National Nuclear Security Administration (NNSA), receiving USPs for the purpose of obtaining contracts or financial assistance awards from the Department or in response to Notices of Program Interest, as defined in the DOE financial assistance rules at Title 10 Code of Federal Regulations (CFR) 600.9.
- b. Contractors. This Order does not apply to DOE contractors.
- c. Exclusions. The provisions of this Order do not apply to the following:
  - (1) proposals or applications submitted in response to invitations for bids, requests for proposals, requests for quotations, program opportunity notices, program research and development announcements, program rules, program solicitations, or solicitations with a common cutoff date for submission under which the submissions are evaluated concurrently;
  - (2) communications titled "proposal" that are clearly advertising material, commercial product offers, contributions, technical correspondence, or suggestions; or
  - (3) USPs submitted to the Power Marketing Administrations or the Office of Naval Reactors.

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**DISTRIBUTION:**

All Departmental Elements

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**INITIATED BY:**

Office of Procurement and Assistance Management

4. REQUIREMENTS.

- a. Nondisclosure of Information. Except as provided in the nondisclosure certificate contained in Appendix B of *Merit Review Guide for Financial Assistance and Unsolicited Proposals* (hereafter referred to as DOE Merit Review Guide), DOE personnel must not disclose restricted information included in any USP to individuals who are not participating in the same evaluation proceedings. The disclosure of such information concerning trade secrets, processes, operations, styles of work, apparatuses, and other matters, except as authorized, may result in criminal penalties under Title 18 United States Code, section 1905.
- b. Presubmission Discussions.
  - (1) Presubmission discussions with prospective submitters must be limited to discussions of the DOE mission and needs relative to the type of effort contemplated by the submitter. The purpose of any such presubmission discussions is to establish that the contemplated submission has the potential to meet the Department's mission and program needs, reduce paperwork, and save considerable time and effort for the submitter and the Department. The Department will, however, make available to prospective submitters, information in accordance with Federal Acquisition Regulation (FAR) 15.604.
  - (2) Advance discussions with a potential submitter must not encourage or otherwise authorize the submitter to perform any work at DOE expense in anticipation of award.
- c. Unsolicited Proposal Processing and Control.
  - (1) Except for classified USPs, all USPs must be sent to the Department's USP manager at the following address:

National Energy Technology Laboratory  
Pittsburgh Office  
626 Cochran's Mill Road  
P.O. Box 10940  
Pittsburgh, PA 15236-0940.

Individuals requesting information regarding the process for sending classified USPs should be directed to contact the program office that would be responsible for reviewing the USP to obtain instructions on shipping the classified USP. The program office should provide the method for transmitting the classified USP, including the classified mail address, how to prepare the package for shipping, etc. Unclassified

summaries of the USP should be provided to the USP manager as detailed in paragraph 4(c)(3). DOE M 471.2-1C, *Classified Matter Protection and Control Manual*, dated 4-17-01, contains the current Departmental policy for shipping and handling of classified information.

- (2) The USP manager must take the following actions upon receipt of USP submissions.
  - (a) Review USPs within 10 business days of receipt to ensure they comply with FAR parts 15.605 and 15.609(a) through 15.609(d).
  - (b) Acknowledge receipt of USPs.
    - 1 Acknowledge receipt to outside submitters and request information required under FAR 15.605 for evaluation, if applicable.
    - 2 Send letters of acknowledgment to Members of Congress who forward USPs to DOE. Letters to Members of Congress must be sent to the Executive Secretariat in accordance with current procedures.
  - (c) Enter information pertaining to USPs and submitters into the DOE USP Database Tracking System within 10 business days of receipt, and obtain tracking numbers (from the system) for the USPs.
  - (d) Assign and forward USPs to the appropriate USP program liaison officers for preliminary review.
- (3) All DOE departments, including the Office of Defense Nuclear Nonproliferation, NNSA, must upon receipt of a classified USP (e.g., SECRET) submit the following to the USP manager:
  - (a) a written report of receipt,
  - (b) an unclassified summary of the proposal, and
  - (c) a statement of disposition.
- (4) Program offices must maintain adequate records, in accordance with DOE O 200.1, *Information Management Program*, to respond to subsequent inquiries regarding the basis for the decision to support or not support a USP.

- (5) The USP manager must prepare a monthly field validation report using the DOE USP Database Tracking System and provide it to each USP program liaison officer assigned a USP. Program offices must review these reports to ensure they accurately reflect the status of proposals and promptly notify the USP manager of any updates or issues regarding status.
- d. Unsolicited Proposal Preliminary Review. USP program liaison officers must ensure that program reviewing officials determine USPs comply with the requirements specified in FAR parts 15.606-1, 15.609(f)(3), 15.609(g), and 15.609(h)(2) and all subsequent reviews comply with the applicable rules and regulations.
- (1) USP program liaison officers must forward USPs to reviewers within the program office (program reviewing officials) for preliminary review to determine whether further consideration is warranted.
  - (2) USP program liaison officers must also notify the USP manager by electronic mail, within 10 business days of receipt of a USP, of the identity of the program reviewing official assigned the proposal.
  - (3) Preliminary reviews should include an assessment of whether there are any impediments to a noncompetitive award, such as the following:
    - (a) lack of programmatic interest or failure to contribute to the agency's or activity's mission [FAR, parts 15.606-2(a)(3) and 15.607(a)(3)];
    - (b) failure to demonstrate a unique, innovative, or meritorious idea, method, or approach [FAR, parts 15.606-2(a)(1) and 15.607(a)(4) and 10 CFR 600.6(c)(7)];
    - (c) lack of funds for support [FAR, part 15.607(b)(3)];
    - (d) availability to the Government without restriction from another source [FAR, part 15.607(a)(1)]; and
    - (e) close resemblance to a recent, current, or planned solicitation or program opportunity notice [FAR, part 15.607(a)(2)].
  - (4) USP program liaison officers must notify the USP manager of the results of preliminary reviews within 20 business days after receipt of proposals by program reviewing officials. If the results of a preliminary review indicate a proposal should be rejected, a declination letter describing the basis of rejection will be prepared by the responsible program reviewing

official or his/her designee and sent to the submitter with a copy to the USP manager.

e. Unsolicited Proposal Evaluation.

- (1) If a USP is not rejected as a result of the preliminary review, the USP program liaison officer must ensure that individuals knowledgeable in the field of endeavor conduct a comprehensive assessment of the technical and scientific merits of the USP in accordance with the DOE Merit Review Guide or the specific program's internal merit review procedures, if they are consistent with the DOE Merit Review Guide. Merit reviewers should use a formal rating system and forms such as the Rating Plan and the Review Form for Noncompetitive Applications and Unsolicited Proposals contained in Appendix C of the DOE Merit Review Guide. The program official responsible for the review should follow the guidance in the Rating Plan and DOE Merit Review Guide and prepare a summary statement for the proposal.
- (2) If a USP is determined to have sufficient technical or scientific merit, the USP program liaison officer must ensure that the official responsible for the review conducts a technical evaluation of the proposal to determine cost realism.

f. Unsolicited Proposal Acceptance. If as a result of merit and other reviews the program office recommends accepting a proposal, the following actions must be completed.

- (1) The USP program liaison officer must ensure that the program reviewing official prepares a justification for a noncompetitive award in accordance with 10 CFR 600.6(c)(7) for financial assistance or FAR 6.3 for acquisition. The justification should include the results of the merit review evaluation.
- (2) Noncompetitive determinations for financial assistance awards must be approved by the individuals identified in 10 CFR 600.6(d). Noncompetitive determinations for acquisitions must be approved by the individuals identified in FAR 6.304, using the related thresholds.
- (3) The USP program liaison should prepare a Procurement Request-Authorization (DOE F 4200.33) and forward the request, proposal, justification for noncompetitive award, merit review summary statement, and technical review of cost to the appropriate contracting activity for negotiation of an award.

- (4) The USP program liaison must also forward a copy of the approved Procurement Request-Authorization (USP number annotated); the procurement office information (i.e., contact name, location, and telephone number); and a copy of the determination or justification for noncompetitive award to the USP manager.
- g. Unsolicited Proposal Rejection. If the program office rejects a proposal, the USP program liaison officer must ensure that the following actions are completed.
  - (1) Obtain a declination letter setting forth the rationale for rejection from the program reviewing official and mail it to the submitter.
  - (2) Submit a copy of the signed declination letter to the USP manager within 5 business days of the date of the letter.
  - (3) Promptly return all copies of the proposal when the proposal resembles, in substance, that of a current or planned competitive solicitation or program opportunity notice. The submitter will be advised of the following:
    - (a) the current or planned solicitation or notice and access information,
    - (b) how to access any program's business alert registration, if applicable, and
    - (c) that a proposal or application may be submitted in accordance with the requirements of the competitive solicitation or notice.
- h. The USP manager enters each disposition decision into the DOE USP Database Tracking System.
- i. If a proposal has undergone a comprehensive merit review, a final decision must be reached by the responsible program reviewing official within 90 days after the proposal's receipt by the USP program liaison officer. If a final decision has not been made by that time, a 90-day delinquent report, specifying the status of the review and an expected final decision date, will be forwarded to the USP manager by the USP program liaison officer.
- j. No negotiations should be held with the submitter until a proposal is accepted. Discussions, if necessary, may occur to clarify the proposal and costs proposed. Clarification that occurred during the proposal review will be documented and forwarded to the contracting officer should the proposal be accepted for award. The contracting officer in the cognizant procurement office is responsible for directing negotiations to begin at the appropriate time.

5. RESPONSIBILITIES.

- a. Director, Office of Procurement and Assistance Management through the Office of Management Systems and Services. Has overall management responsibility for the USP Program, including providing Departmental policy on USP procedures, submission, evaluation, and disposition.
- b. Director, National Energy Technology Laboratory through the Director, Acquisition and Assistance Division. Has operational responsibility for the USP Program, including the following:
  - (1) managing the USP Database Tracking System and monitoring its compliance with this Order;
  - (2) receiving, acknowledging, assigning, and monitoring the progress of USPs forwarded to DOE for evaluation;
  - (3) providing training or other assistance to Departmental elements upon request;
  - (4) serving as the Department's point of contact on USPs; and
  - (5) providing monthly, quarterly, year-end and ad hoc reports to affected Departmental elements.
- c. Unsolicited Proposal Manager.
  - (1) Maintains centralized control of program office review, tracking, and reporting of USPs.
  - (2) Maintains lists of—
    - (a) all contact points (including USP program liaison officers) and
    - (b) program office representatives empowered to speak for programmatic interests.
- d. Heads of Departmental Elements. Must appoint an individual within their department to serve as USP program liaison officer.
- e. Unsolicited Proposal Liaison Officers.
  - (1) Ensure timely and accurate reporting to USP manager on status of proposal evaluations.

- (2) Provide for the adequate and proper maintenance of records.
  - (3) Develop detailed procedures for timely and fair handling and review of USPs within their specific organizations.
  - (4) Ensure timely disposition of USPs.
6. REFERENCES. The following references are available on the Internet at <http://www.pr.doe.gov/fahome.html>.
- a. FAR, subpart 15.6, covers USPs.
  - b. Department of Energy Acquisition Regulation (DEAR), subpart 915.6, covers USPs.
  - c. Title 10 CFR, part 600, "Department of Energy (DOE) Financial Assistance Rules," section 600.6 (c), covers Noncompetitive financial assistance and section 100.10 (b) covers forms.
  - d. DOE O 542.1, *Competition in Contracting*, dated 6-30-97, establishes policies and procedures to ensure that Departmental competitive contract procedures conform to the requirements of the Competition in Contracting Act.
  - e. *Merit Review Guide for Financial Assistance and Unsolicited Proposals*, Department of Energy, Office of Procurement and Assistance Policy, Office of Procurement and Assistance Management, dated December 1999.
7. CONTACT. Questions concerning this Order should be referred to the National Energy Technology Laboratory, Office of Business and Logistics, Acquisition and Assistance Division, at 412-386-4524.

BY ORDER OF THE SECRETARY OF ENERGY:



FRANCIS S. BLAKE  
Deputy Secretary